

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ARTURO TORRES OCHOA,	)	
	)	
Plaintiff,	)	3:10-cv-00196-LRH-VPC
	)	
vs	)	
	)	<u>ORDER</u>
CASSANDRA LARGE, et al.,	)	
	)	
Defendants.	)	

Plaintiff has submitted a civil rights complaint but the application to proceed *in forma pauperis* does not provide a completed financial certificate or other necessary information. He has been ordered to provide a complete application, but has failed to do so. The second application filed on August 17, 2010 is also incomplete. Moreover, the court is aware that plaintiff has previously filed at least on at least three (3) occasions, the court has dismissed civil actions commenced by plaintiff while in detention as frivolous or for failure to state a claim upon which any relief may be granted.<sup>1</sup>

Under 28 U.S.C. § 1915(g), “if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that is frivolous, malicious, or fails to state a claim upon which relief may be granted,” he may not proceed *in forma pauperis* and instead must pay the full \$350.00 filing fee in advance, unless he is under imminent danger of serious physical injury. “Section 1915(g)’s cap on prior dismissed claims applies to claims dismissed both before and after the statute’s effective date” of April 26, 1996.

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<sup>1</sup> See *Ochoa v. Cook, et al.*, 3:02-cv-00450-DWH-RAM; *Ochoa v. Willis, et al.*, 3:02-cv-00545-ECR-VPC (both dismissed for failure to state a claim upon which relief may be granted); *Ochoa v. Putter C/O, et al.*, 3:10-cv-00364-HDM-RAM (dismissed as delusional and factually frivolous). The court takes judicial notice of its prior records in the above matters.

1 *Tierney v. Kupers*, 128 F.3d 1310, 1312 (9th Cir. 1997).

2 Plaintiff cannot proceed *in forma pauperis* in this action or any other civil action filed in any  
3 federal court because he has had three (3) or more prior actions dismissed for failure to state a claim  
4 upon which relief may be granted, or as frivolous or malicious. Plaintiff has not alleged, and the subject  
5 matter of this action does not indicate, that he is in imminent danger of serious physical injury. He must  
6 pre-pay the filing fee in full.

7 **IT IS THEREFORE ORDERED** that plaintiff's application to proceed *in forma pauperis*  
8 (docket #10) is **DENIED**.

9 **IT IS FURTHER ORDERED** that this action will be dismissed without prejudice unless  
10 plaintiff pays the \$350.00 filing fee in full within **thirty (30) days** of entry of this order.

11 **IT IS FURTHER ORDERED** that the Clerk of Court shall send plaintiff two copies of this  
12 order. Plaintiff shall make the necessary arrangements to have one copy of this order attached to the  
13 check paying the filing fee.

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall retain the complaint.

15 **IT IS FURTHER ORDERED** that the "letters" filed by plaintiff (docket #s 3, 5, 7, 8, 9, 11, 12,  
16 and 13) are **STRICKEN**.

17 Dated this 20th day of September, 2010.



18  
19  
20 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE